

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

FIKES *et al.*

Appl. No.: 10/553,703

§ 371 date: September 19, 2006

For: **HLA-A2 Tumor Associated  
Antigen Peptides and Compositions**

Confirmation No.: 4669

Art Unit: 1642

Examiner: Minh Tam B Davis

Atty. Docket: 2060.0150007/EKS/PAC

**Reply to Unity of Invention Rejection**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated September 25, 2008, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of **Group A**, represented by claims 15, 22-26, 29-31, 33-36. The Examiner has indicated that **Group A** is represented by claims 15, 22-26, 29-31, 33, and 36. However, Applicants respectfully believe **Group A** should contain claims 34 and 35 because they both depend from claim 33. The Examiner has also indicated that the claims of **Group A** are directed to a method of treating breast cancer. Applicants believe that the claims of **Group A** should not be limited to breast cancer. Appropriate clarification is requested. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made with traverse.

At page 4 of the Office Action, the Examiner contends that the **Groups A-D** do not relate to a single inventive concept under PCT Rule 13.1 because the composition of

**Groups B-D** do not share a common structure or property with the combination of peptides of group A. Applicants respectfully traverse these contentions.

Under PCT Rule 13.2, an alleged group of inventions claimed in a single application fulfill the unity of invention requirement of PCT Rule 13.1 when they share one or more of the same or corresponding special technical features. The phrase "special technical features," means "those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." PCT Rule 13.2. Applicants respectfully assert that the claims of **Groups B and C** satisfy the unity of invention requirement, since they share a common technical feature -- the additional peptides selected are from the listing found in **Group A** -- that is a contribution over the prior art.

Even assuming, *arguendo*, that **Groups A-C** represent distinct or independent inventions, Applicants submit that to search and examine the subject matter of **Groups A-C and E-H** together would not be a serious burden on the Examiner. For example, since the additional peptides are all selected from the grouping found in **Group A**, searching the additional peptides of **Group A** would naturally lead to publications which disclose the combination of peptides, thereby making it a simple matter for the Examiner to search and examine the claimed compositions. These searches would also naturally lead to publications disclosing their use in treating cancer. Accordingly, it would not be an undue burden for the Examiner to search **Groups A-C and E-H** together. The M.P.E.P. §803 (Eighth Edition, Rev. August, 2005) states:


If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus, in view of the M.P.E.P. §803, Applicants respectfully request that the claims of **Groups A-C and E-H** be searched and examined in the subject application. Therefore, reconsideration and withdrawal of the Unity of Invention Objection, and consideration and allowance of all pending claims and new claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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